

**REMARKS**

Applicants have carefully reviewed the Office Action dated May 17, 2005, the cited references, and the Examiner's reasons for rejection of the claims. Applicants respectfully submit that, based on this Response, this application is in condition for full allowance, and Applicants respectfully request such allowance.

**Drawings**

In the Office Action mailed May 17, 2005, the Examiner objected to the drawings, requesting corrected formal drawings. Formal drawings labeled "replacement sheets" are enclosed with this response.

**Response to Rejections under 35 U.S.C. Section 102**

In the Office Action dated May 17, 2005, the Examiner rejected claims 1-4, 7-8, 14-16, 19-20, and 23-27 under 35 U.S.C. Section 102 in view of Cote (U.S. Patent No. 6,021,262). The Examiner will recall that Applicants' invention, as claimed in at least claim 1, is directed to a distributed processing environment that includes a client computer, a plurality of server computers each having an instance of an application thereon, a messaging system for controlling the exchange of messages, and a time-distributed load balancing system. The time-distributed load balancing system resides on the client computer and determines to which of the plurality of servers to direct a message based on a time associated with the message. A distribution rule requires transfer of the message to a selected one of the servers if the time of the message falls within corresponding predetermined time spans. One novel aspect of the claimed invention being the time related distribution of messages to servers to balance the load on the servers to process the message from the client computer.

The Cote reference is directed to a system for detection and notification of failures related to messaging systems. In rejecting claim 1, the Examiner cites Cote (col. 2, lines 25-36) as disclosing Applicants' time-distributed load balancing system. Applicants have carefully reviewed the Cote reference and cited passage and note that Cote discloses a notification method that allows an administrator to control how (such as via pager) and when an administrator and others are to be notified of a deficiency in an application system, i.e., a messaging system. The method of notification is also able to notify an administrator of a deficiency involving the

messaging system regardless of whether the messaging system is functional. The method of notification is able to notify additional recipients as additional time passes after detection of a deficiency giving rise to the notification.

Applicants submit that the Cote disclosure of a system for notifying recipients as additional time passes after detection of a failure of a messaging system fails to teach, disclose, or even suggest Applicants time-distributed load balancing system that determines to which of the plurality of servers to direct a message based on a time associated with the message, or a distribution rule that requires transfer of the message to a selected one of the servers if the time of the message falls within a corresponding predetermined time spans for load balancing. None of the teaching of Cote relate to the load balancing novelty of Applicants' claimed invention. For this reason, since neither Cote or the other references cited by the Examiner teach, disclose, or suggest, either alone or in combination, Applicants invention as claimed in claim 1, Applicants respectfully request the Examiner to withdraw the rejection of independent claim 1 and dependent claims 2-13 which depend therefrom and include additional novel aspects, as pass these claims to issue.

In rejecting independent claim 14, the Examiner again cites Cote col. 2, lines 25-36, as well as col. 3, lines 15-20, as disclosing Applicants' time-distributed load balancing and failover system. Applicants' claim 14 includes a time-distributed load balancing and failover system, which includes the time-distributed load balancing aspects of claim 1 discussed above and further a failover rule that requires transfer of the message to a subsequent one of the plurality of server computers associated with a subsequent one of the pre-determined time spans if the selected server computer has failed.

For the reasons discussed above and incorporated herein by reference, Applicants submit that the Cote disclosure (col. 2, lines 25-36) fails to provide any disclosure, teaching, or suggestion of the time-distributed load balancing aspects of Applicant's invention as claimed in claim 14. The remaining text cited by the Examiner (Cote, col. 3, lines 15-20) discloses a plurality of notification actions that may be selected and include inserting a delay period between the execution of at least one of the notification actions and the execution of at least one other notification action. The notification actions may be directed to different recipients.

Applicants respectfully submit that notification of delays in a messaging system, regardless of where or when they are sent, fails to teach, disclose, or suggest Applicants' failover system as claimed in claim 14 having a rule that requires transfer of the message to a subsequent one of the plurality of server computers associated with a subsequent one of the pre-determined time spans if the selected server computer has failed. In fact, the Cote reference fails to teach or disclose any failover related to Applicants' disclosure. For these reasons, Applicants request that the Examiner withdraw the rejection of Claim 14, and dependent claims 15-22 which include each and every element of base claim 14 as well as additional novel aspects, as pass these claims to issue.

In rejecting independent claim 23, and more specifically, the time related distribution of messages to servers to balance the load and manage failover of the servers to process the messages, the Examiner again cites Cote col. 2, lines 25-36, and also cites col. 7, lines 28-34, and col. 4, lines 61-col. 5 line 15.

For the reasons discussed above and incorporated herein by reference, Applicants submit that the Cote disclosure (col. 2, lines 25-36) fails to provide any disclosure, teaching, or suggestion of the time-distributed load balancing aspects of Applicant's invention as claimed in claim 14. The Examiner cites col. 7, lines 28-34 for disclosing Applicants' a pre-determined time span assigned to each one of the applications and server computer platforms, the pre-determined time spans assigned to the applications arranged in a self-repeating sequence, collectively comprise a first unit of time and respectively encompass a contiguous range of values for a second unit of time.

Applicants submit that the cited text discloses that a service hour procedure is operable for an administrator to specify the settings, periods of time during which a notification action is permitted to execute, such as the hours that the administrator prefers to receive the immediate notifications via the administrator's pager. Applicants submit that a procedure to specify when an administrator desires to receive notification of a failure of a message system fails to teach, disclose, or even suggest Applicants' invention of a pre-determined time span assigned to each one of the applications and server computer platforms, the pre-determined time spans assigned to the applications arranged in a self-repeating sequence, collectively comprise a first unit of time

and respectively encompass a contiguous range of values for a second unit of time.

The Examiner cites the Cote reference (col. 4, lines 61-col. 5 line 15) as disclosing selecting the server computer to receive the message, the selected server computer corresponding to the pre-determined span of time assigned to the instance of the application for which the second value for the arrival time falls within the contiguous range of values. Applicants respectfully submit that the cited text only discloses an administrator setting warning and alert thresholds, such as based on exceeding a message delivery time.

Applicants respectfully submit that an administrator setting warning and alert thresholds, such as based on message delivery times, fails to teach, disclose, or suggest selecting the server computer to receive message, or that the selected server computer corresponding to the pre-determined span of time assigned to the instance of the application operating on the server, the selection of the server computer hosting the application based on the second value for the arrival time falls within the contiguous range of values. Since the cited references, either alone or in combination, fail to teach, disclose, or suggest Applicants' invention as claimed in independent claim 23, and dependent claims 24-27 which depend therefrom, Applicants request that the Examiner withdraw the rejection of claims 23-27 and pass same to issue.

### **Response to Rejections under Section 103**

In the Office Action dated May 17, 2005, the Examiner rejected claims 5, 10, 11, 17, and 21 under 35 U.S.C. Section 103(a) based on Cote and further in view of Levac (U.S. Patent No. 5,872,926). Applicants have carefully reviewed the Levac and other references cited by the Examiner. For the reasons stated above and incorporated herein by reference, Applicants respectfully submit that the primary reference, Cote, fails, either alone or in combination with the Levac or other references, to teach, disclose, or suggest Applicants' claimed invention. For this reason, Applicant requests the Examiner to withdraw the rejection of claims 5, 10, 11, 17 and 21 and pass same to issue.

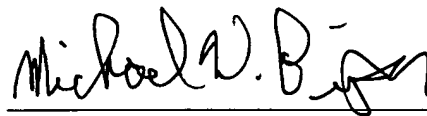
### **Conclusion**

Applicants respectfully submit that the present application is in condition for full allowance for the reasons stated above, and Applicants respectfully request such allowance. If

the Examiner has any questions or comments or feels it would be helpful in expediting the application, the Examiner is encouraged to telephone the undersigned at (972) 731-2288. This correspondence is intended to be a complete response to the Office Action dated May 17, 2005. The Commissioner is hereby authorized to charge payment of any further fees associated with any of the foregoing papers submitted herewith, or to credit any overpayment thereof, to Deposit Account No. 21-0765, Sprint.

Respectfully submitted,

Date: August 17, 2005



Michael W. Piper  
Reg. No. 39,800

CONLEY ROSE, P.C.  
5700 Granite Parkway, Suite 330  
Plano, Texas 75024  
(972) 731-2288  
(972) 731-2289 (facsimile)

ATTORNEY FOR APPLICANT